

### **REMARKS**

In the above-identified Office Action, the Examiner has rejected claims 1 and 3-17 and 21 as unpatentable over Rybicki in view of Russell. The Examiner has stated that Rybicki does not disclose a digital frequency filter for separating the digitally received signal into a first digital voice signal and first digital data signal and combines a second digital voice signal and a second digital data signal to form the digital transmit signal. The Examiner states that Russell teaches such a digital frequency separating filter.

Applicant disagrees, noting that Fig. 1(a), as pointed to by the Examiner, has a splitter which isolates POTS signals from an XDSL transceiver. XDSL signals contain data encoded digitally. This does not imply that the splitter is a digital filter. To the contrary, Russell teaches that the splitter consists of a low-pass filter and a high-pass filter wherein the high-pass filter includes a series of capacitors and inductor coils (column 1 lines 28-30 and 41). Thus, the splitter is an analog splitter. Therefore, there is no teaching in the art of record of a digital splitter as required by the claims. As both Rybicki and Russell fail to teach such a digital frequency separating filter, the subject invention is not rendered obvious by the art of record.

With regard to the dependent claims, as the dependent claims each are dependent on claim 1, which - as set forth above - is patentable over the art of record. Such dependent claims should also be patentable.

Claim 20 has been rejected over Rybicki in view of Russell and further in view of Chao. As set forth above, claim 1 is patentable over the art of record and thus the additions of the teachings of Chao do not fulfill the deficiency in the teachings of the art and thus claim 20 should also be patentable over the art of record.

Claims 1 and 3-21 have been rejected on the grounds of non-statutory obviousness-type double patenting over claims 1-13 of US Patent 7, 164,708. Applicant hereby encloses a terminal disclaimer over US Patent 7,164,708 thereby obviating the obviousness-type double patenting rejection herein.

Applicant hereby requests reconsideration and reexamination thereof.

With the above amendments and remarks, this application is considered ready for allowance and Applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to call the undersigned at the below-listed number.

Respectfully submitted,  
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